

1 STATE OF OKLAHOMA

2 2nd Session of the 57th Legislature (2020)

3 COMMITTEE SUBSTITUTE  
4 FOR

5 SENATE BILL 1802

By: Kidd of the Senate

and

6 Osburn of the House

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9 COMMITTEE SUBSTITUTE

10 An Act relating to court records; amending 20 O.S.  
11 2011, Sections 1005 and 1008, which relate to  
12 destruction of court records and depositions;  
13 modifying time periods for destruction of records of  
14 certain cases; modifying requirements for storage of  
15 certain records; authorizing payment of certain costs  
16 from Court Clerk's Records Management and  
17 Preservation Fund; modifying time periods for  
18 destruction of depositions from certain cases; and  
19 providing an effective date.

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22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 20 O.S. 2011, Section 1005, is  
24 amended to read as follows:

25 Section 1005. A. Unless there is an objection by the presiding  
26 administrative judge or the chief judge of the district court, the  
27 court clerk is authorized to dispose of the judicial records  
28 enumerated in this subsection ~~by first offering all or part of the~~  
29 ~~records to the Archives and Records Division of the Oklahoma~~

~~Department of Libraries for preservation as historical research~~  
~~materials, and by destroying all those which are not accepted by the~~  
~~Division.~~ Nothing shall prohibit the presiding administrative judge  
or the chief judge of the district court from entering an order for  
the destruction of records prior to the time limits enumerated in  
this subsection for good cause shown. In the record destruction  
process, any officer may rely upon computerized lists or other  
electronic data provided by the Administrative Office of the Courts  
or its OCIS/OSCN system. For purposes of determining the time  
periods in this chapter, the officer may disregard entries or  
actions taken in the subject cases, such as accounting, internal  
electronic data or other nonjudicial entries. The judicial records  
subject to disposal or destruction shall be:

1. Domestic relations cases. This shall include, but not be  
limited to, cases filed concerning divorce, separate maintenance,  
annulment, reciprocal actions for enforcement of support, child  
custody, domestic abuse, foreign judgments in domestic relations  
cases, income assignments relating to an order of support,  
paternity, appeal on administrative order relating to support or  
paternity, habeas corpus relating to children, and other domestic-  
related filings:

- a. domestic relations cases that have been dismissed and  
no pleading has been filed or any action taken in the  
case for more than one (1) year, ~~and~~

1           b.   all domestic relations cases in which a minor child is  
2               involved after a twenty-year period has elapsed since  
3               any pleading has been filed or any action taken in the  
4               case, and

5           c.   all domestic relations cases in which no minor child  
6               is involved after a ten-year period has elapsed since  
7               any pleading has been filed or any action taken in the  
8               case;

9           2.   Probate cases. This shall include, but not be limited to,  
10          cases filed concerning the probating of estates, guardianships,  
11          conservatorships, mental health, protective services to the elderly,  
12          powers of attorney, and trusts:

13           a.   probate cases that have been dismissed and no pleading  
14               has been filed or any action taken in the case for  
15               more than one (1) year, and

16           b.   all probate cases after a twenty-year period has  
17               elapsed since any pleading has been filed or any  
18               action taken in the case;

19           3.   Actions brought for money judgment only in which a dismissal  
20          or release and satisfaction has been filed for more than one (1)  
21          year;

22           4.   Civil ~~(CJ and CS)~~ records of cases:  
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- a. civil ~~(CJ and CS)~~ cases that have been dismissed and no pleading has been filed or any action taken in the case for more than one (1) year, and
- b. all other civil ~~(CJ and CS)~~ cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case;

5. Felony criminal records of unadjudicated cases and adjudicated cases:

- a. felony criminal cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,
- b. felony criminal records of adjudicated cases after a ten-year period has elapsed since any pleading has been filed or any action taken in the case, and
- c. felony criminal records of adjudicated cases, where the sentence imposed was death, life without parole, or life, after a fifty-year period has elapsed since any pleading has been filed or any action taken in the case;

6. Misdemeanor records of unadjudicated cases and adjudicated cases:

- a. misdemeanor cases that have been dismissed and no pleading or any action taken in the case for more than one (1) year,

1           b.    misdemeanor records of adjudicated cases after a five-  
2               year period has elapsed since any pleading has been  
3               filed or any action taken in the case; ~~and~~

4        7.   Juvenile cases. This shall include, but not be limited to,  
5 cases filed concerning delinquents, children in need of supervision,  
6 deprived children, children in need of treatment, children in need  
7 of shelter, and other related juvenile filings:

8           a.   juvenile cases that have been dismissed and no  
9               pleading has been filed or any action taken in the  
10              case for more than one (1) year, and

11          b.   all juvenile cases after a ~~twenty-year~~ ten-year period  
12               has elapsed since any pleading has been filed or any  
13               action taken in the case; and

14       8.   Protective orders:

15       1.   Protective order cases that have been dismissed and no  
16 pleading has been filed or any action taken in the case for more  
17 than one (1) year; and

18       2.   Protective order cases after a ten-year period has elapsed  
19 since the protective order was issued.

20       B.   The judicial records and the appearance docket books or  
21 sheets on which they are entered, prior to their disposal or  
22 destruction, shall be stored on at least two microfilm records,  
23 optical ~~disks,~~ discs or other appropriate medium, ~~one of which shall~~  
24 ~~be placed in the Archives and Records Division of the Oklahoma~~

1 ~~Department of Libraries or in a bank or other appropriate local~~  
2 ~~depository and the other~~ shall be available for public use in the  
3 court clerk's office. ~~The copy in the Department of Libraries or~~  
4 ~~other depository shall be available for replacement in case of~~  
5 ~~functional failure of the one available for public use.~~ The cost of  
6 the storage medium and equipment for viewing and copying shall be  
7 paid out of the court fund or the Court Clerk's Records Management  
8 and Preservation Fund created pursuant to Section 31.3 of Title 28  
9 of the Oklahoma Statutes, upon approval by the Chief Justice of the  
10 Supreme Court. Records reproduced from microfilm, optical ~~disk~~  
11 disc, and other media produced pursuant to the provisions of this  
12 section shall be received in evidence and have the same legal  
13 efficacy as the original.

14 C. Traffic cases. The court clerk of each district court shall  
15 destroy the judicial records of traffic cases and the appearance  
16 docket books or sheets on which they are entered after a five-year  
17 period has elapsed since any pleading has been filed or any action  
18 taken in the case, except in the case of a conviction for driving  
19 under the influence of intoxicating liquor or any narcotic drug,  
20 which records shall be destroyed after a ten-year period has elapsed  
21 since any pleading has been filed or any action taken in the case.

22 D. Records of criminal property cases brought pursuant to  
23 Section 1321 et seq. of Title 22 of the Oklahoma Statutes shall be  
24 subject to disposal or destruction after a two-year period has

1 elapsed since any pleading has been filed or any action taken in the  
2 case.

3 SECTION 2. AMENDATORY 20 O.S. 2011, Section 1008, is  
4 amended to read as follows:

5 Section 1008. In each county of this state, the court clerk is  
6 hereby authorized to destroy, from time to time, depositions taken  
7 in all civil cases and domestic cases in which no minor child is  
8 involved, except adoptions, after a ten-year period, and depositions  
9 taken in domestic relations cases in which a minor child is involved  
10 may be destroyed after a twenty-year period has elapsed since any  
11 pleading has been filed or any action taken in the case.

12 SECTION 3. This act shall become effective November 1, 2020.

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